

HOUSE BILL 3797  
By Casada

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 11, to require providers of abortion services and providers of pregnancy counseling services to provide minors with information regarding statutory rape.

WHEREAS, men and women violate the statutory rape law of this state by initiating sexual relationships with minors; and

WHEREAS, a significant number of these violators go unpunished due to a lack of reporting of statutory rape violations and a lack of knowledge on behalf of the victim that a crime has been committed; and

WHEREAS, many of these illegal relationships result in a young woman becoming pregnant and facing many excruciating choices; and

WHEREAS, providers of pregnancy counseling services and abortion services who come into contact with potential victims of statutory rape should be required to provide such young women with information regarding the crime and how to report the crime to the appropriate authorities; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this act, unless the context otherwise requires:

(1) "Minor" means a person under eighteen (18) years of age;

(2) "Provider of abortion services" means any facility, as defined in § 68-11-201, that provides abortion services and includes "ambulatory surgical treatment centers" and "hospital" as defined in § 68-11-201;

(3 ) "Provider of pregnancy counseling services" means any publicly or privately supported program or service that provides counseling services for females who are, or who may think they are, pregnant; and

(4) "Statutory rape" has the same meaning as defined in § 39-13-506.

## SECTION 2.

(a) A provider of pregnancy counseling services or a provider of abortion services who provides service to a minor shall give the minor, and, if applicable, any adult accompanying such minor, written information regarding statutory rape, as described in subsection (b), and shall verbally explain that the written information being provided describes the minor's rights in cases of statutory rape.

(b) The provider of pregnancy counseling services or abortion services shall furnish the minor with a pamphlet that contains the following information:

(1) A explanation of statutory rape, as follows: "Under Tennessee law, consensual sex where the 'victim' is between the ages of 13 and 17 years of age and the 'defendant' is at least four years older than the 'victim' is considered statutory rape".

(2) A statement of the victim's right to pursue criminal charges, as follows: "If you are the victim of statutory rape, you may report the offense to the appropriate authorities".

(3) An explanation that the victim should contact the local law enforcement if the victim chooses to report the crime; and

(4) A statement of the victim's right to request a provider of abortion services to retain a sample of the fetus after an abortion for genetic testing in the event such testing is required as part of the criminal investigation. The

information required by this subdivision (b)(4) shall also be verbally presented to the minor and, if applicable, the accompanying adult.

(c) A provider of pregnancy counseling services or abortion services who fails to provide the information required by this section shall be assessed a civil penalty of five hundred dollars (\$500) for each violation.

SECTION 3. A provider of abortion services shall, upon the written request of a minor who may be the victim of statutory rape, retain a sample of the minor's aborted fetus so that genetic testing may be conducted as part of a statutory rape investigation, in accordance with rules and regulations adopted by the attorney general and reporter. The provider shall work in conjunction with a laboratory to store the retained material.

SECTION 4. The attorney general shall adopt rules and regulations prescribing:

(1) The amount and type of fetal tissue to be preserved pursuant to this act and for what length of time the tissue has to be preserved;

(2) Procedures for the proper preservation of such tissue for the purpose of DNA testing and examination;

(3) Procedures for documenting the chain of custody of such tissue for use as evidence in a court or other proceeding;

(4) Procedures for proper disposal of fetal tissue preserved pursuant to this act;

(5) A uniform reporting instrument mandated to be utilized by a person when submitting fetal tissue under this act, which shall include the name of the person submitting the fetal tissue and the name, complete address of residence, and name of the parent or legal guardian of the minor upon whom the abortion was performed; and

(6) Procedures for communication with law enforcement agencies regarding evidence and information obtained pursuant to this act.

SECTION 5. This act shall take effect July 1, 2006, the public welfare requiring it.

